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15 JUL 2008

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In re Application of
ZALEVSKY et al.
U.S. Application No.: 10/565,623
PCT No.: PCT/IL2004/00678
International Filing Date: 25 July 2004
Priority Date: 24 July 2003
Atty's Docket No.: ZALEVSKY4
For: METHOD FOR PRODUCTION
OF MICRO-OPTICS STRUCTURES

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: DECISION ON PETITION
:
: UNDER
:
: 37 CFR 1.497(d)
:
:
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This decision is issued in response to applicant's "Request for Reconsideration" of the decision on applicant's "Petition under 37 CFR 1.497(d)", "Petition under 37 CFR 1.183" to waive the requirements of 37 CFR 1.497(d), and "Petition under 37 CFR 1.47(a)". The request for reconsideration was filed 26 October 2007.

BACKGROUND

A recitation of the procedural history of this application is set forth in the decision mailed on 28 June 2007. In short, on 5 December 2006, in response to the 905, applicant filed a declaration, which listed Yuval Kapellner as an inventor. In the 28 June 2007 decision, applicant was advised that the declaration was unacceptable as it failed to properly identify the inventors of record herein since Mr. Kapellner was not identified as an inventor in the published PCT international application. Applicant's petition under 37 CFR 1.497(d), a Petition under 37 CFR 1.183 and a petition under 1.47(a) were dismissed without prejudice.

On 26 October 2007, applicant filed the instant reconsideration of the petition under 37 CFR 1.497(d) seeking to add Yuval Kapellner as an inventor. Applicant also filed declarations executed by all the named inventors and by Yuval Kapellner.

DISCUSSION

Request To Add Inventor Under 37 CFR 1.497(d)

Where, as here, the filed declaration names additional inventors who were not identified on the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the consignee (in the form required by 37 CFR 3.73(b)).

Applicant previously submitted the required processing fee, satisfying Item (2) and the consent of the assignee, Ex-Play, LTD to the requested change of inventorship, satisfying Item

(3). Applicant has now provided the statement from Mr. Kapellner, required under 37 CFR 1.497(d)(1). Applicant's request to correct inventorship under 1.497(d) is granted.

However, the declaration executed by ARKADY RUDNITSKY is not acceptable. A review of the declaration reveals that the inventor's address has been altered. The USPTO does not accept a declaration that has been altered.

Section 602.01 of the MPEP states the following:

The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Therefore, a new acceptable oath or declaration executed by the inventor ARKADY RUDNITSKY is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

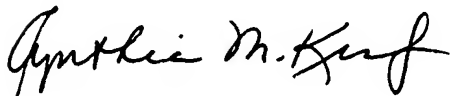
CONCLUSION

Applicant's request to correct inventorship under 1.497(d) is **GRANTED**.

The declaration executed by ARKADY RUDNITSKY, filed 26 October 2007, is defective as it contains an alteration. A new acceptable oath or declaration executed by the inventor ARKADY RUDNITSKY in compliance with 37 CFR 1.497(a) and (b) and 1.63, is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

This application will be held in the PCT Legal Office, Office of PCT Legal Administration to await applicant's further reply, that is, a newly executed oath or declaration by the inventor, in compliance with 37 CFR 1.497(a) and (b). Applicant has TWO months from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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